

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

File No. REG-2007-00005

October 3, 2007

FINAL STATEMENT OF REASONS

SUBJECT OF PROPOSED RULEMAKING

Revised Mandated Benefits Analysis Regulations

UPDATED INITIAL STATEMENT OF REASONS

California Health and Safety Code Section 127660 became effective as law on January 1, 2003. California Health and Safety Code Section 127662(b) provides that the California Department of Insurance and the California Department of Managed Health Care will provide up to two million dollars [\$2,000, 000.00] in to fund the review, by assessing health insurers and health service plans for the costs of the study during the Fiscal Years 2002-3, 2003-4 ,2004-5 and 2005-6. As required by statute the California Department of Insurance and the California Department of Managed Health Care met and stipulated to their respective obligations to fund the mandated benefits study. Based on a market share analysis, it was determined that 87.6 percent of the costs of the mandated benefits study were to be borne by health care service plans [under the jurisdiction of the California Department of Managed Health Care] and 12.4 percent of costs were to borne by health insurers [as defined by California Insurance Code 106] under the jurisdiction of the California Department of Insurance

In September, 2006, the California Legislature amended California Health and Safety Code Section 127662 to require that the Commissioner continue to fund the mandated benefits study through Fiscal Year 2009-10. The statute was also amended to require that the study included consideration of whether or not each of the mandated benefits should continue to be mandated or repeal the mandate for benefits. . The specific purpose for each proposed adoption and the rationale for the determination that amendment is reasonably necessary to carry out the purpose for which it was proposed together with a description of the public problem each adoption is intended to address is set forth below.

**Proposed California Code of Regulations
Section 2218.63(b) (Amend)**

California Health and Safety Code Section 127662 provides that the Insurance Commissioner and the California Department of Managed Care fund a study to be performed by the University of California regarding the efficacy of certain legislatively mandated benefits. The California Legislature amended California Health and Safety Code Section 127662 to provide that the study of legislatively mandated health benefits should continue for the Fiscal Years 2006-7, 2007-8, 2008-9 and 2009-10. California Code of Regulations Section 2218.63 (b), as originally enacted, provides that invoices issued pursuant to these regulations shall assess a fee calculated in the manner described in 2218.62 (a) from each health insurer for the Fiscal Years 2002-3, 2003-4, 2004-5 and 2005-6.

The proposed amendment to Section 2218.63 (b) is necessary so that the regulations that implement Health and Safety Code Section 127662 are consistent with current law that requires the continuation of the study of the mandated benefits for Fiscal Years 2006-7 through Fiscal Year 2009-10. All other provisions of this regulation remain unchanged.

PRE NOTICE DISCUSSION

As set forth above the Commissioner originally engaged in discussions with the California Department of Managed Health Care and determined the respective percentage shares to be used in determining the amount of assessments for the original assessments. The Commissioner has now confirmed with the California Department of Managed Care that the originally determined percentage shares used in calculating the assessment continue to be accurate and appropriate for continued use.

IDENTIFICATION OF STUDIES

The Commissioner has relied upon the memorandum, dated March 13, 2007 prepared by Leo Lara. to Debra A. Chaum setting forth the methodology and assumptions used by the Department in determining the potential impact on insurers and insured. This document is contained in the rulemaking file.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of this regulation as proposed would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations are proposed.

